

**TITLE 10: MANAGED RISK MEDICAL INSURANCE BOARD  
NOTICE OF PROPOSED REGULATIONS**

**R-1-03**

**NOTICE IS HEREBY GIVEN** that the Managed Risk Medical Insurance Board (MRMIB) proposes to permanently adopt changes to Chapter 5.8 of Title 10 of the California Code of Regulations. The changes are for the most part focused on the enrollment and disenrollment procedures for the Healthy Families Program, as impacted by changes in State law and federal regulations. MRMIB has scheduled a public hearing in Sacramento, California, for September 15, 2004, from 1:00 p.m. to 2:00 p.m. at the following address:

1000 G Street, Suite 450  
Front Conference Room  
Sacramento, CA 95814

It is requested, but not required, that any person wishing to present testimony should register at 1:00 p.m. on September 15, 2004. The hearing will be adjourned immediately following the completion of oral and written testimony presentations. This public hearing is for the purpose of considering regulations. The MRMIB upon its own motion, or at the instance of any interested persons, may adopt the proposals substantially as presented.

The MRMIB may modify the regulations after public hearing and adopt the modified regulations if the regulations as modified are sufficiently related to the text made available to the public, so that the public was adequately placed on notice that the regulations as modified could result from the proposed regulatory action. The text of any regulation as modified will be mailed to all persons who testify or submit written comments at the public hearing, submit written comments during the public comment period, and all persons who request notification, at least 15 days prior to the date on which the MRMIB adopts the regulations. A request for a copy of any regulations as modified should be addressed to Dennis Gilliam at the address below.

Any person interested may present statements or arguments relating to the proposals in writing to:

Managed Risk Medical Insurance Board  
Attn: Dennis Gilliam  
1000 G Street, Suite 450  
Sacramento, CA 95814

Statements or arguments relating to the proposals can also be faxed to Dennis Gilliam at (916) 327-6580 or e-mailed to [dgilliam@mrmib.ca.gov](mailto:dgilliam@mrmib.ca.gov).

Such written statements must be received by 5:00 p.m. on September 15, 2004. Written testimony received after September 15, 2004, may not be assured of consideration unless otherwise expressly stated by the hearing officer. It is requested, but not required, that persons making oral presentations at the hearing provide a written statement at the conclusion of their remarks. The above facility is accessible to persons with mobility impairments. If you are in need of a language interpreter, including sign language, at the hearing, or have other special needs, please notify MRMIB at least two weeks prior to the hearing.

These regulations were approved as emergency regulations by the Office of Administrative Law and became effective on July 1, 2004. The MRMIB is required to complete the rulemaking process and submit a final rulemaking file with the Office of Administrative Law on or before 180 days from the effective date of these regulations. The Office of Administrative Law has 30 calendar days to approve or disapprove the final regulations. The regulations will stay in effect until that decision is made.

An Informative Digest/Policy Statement Overview for the proposed regulation changes, including a Fiscal Impact Statement and other required determinations are included below. These regulations are written in plain English. An Initial Statement of Reasons for the proposed action has been prepared. These, and copies of the proposed regulations, may be requested by telephone, or by writing to the above address. In addition, the Board has available a rulemaking file which contains all the information upon which the proposed regulations are based. This file is available for public perusal at the MRMIB office (see address above), during normal office hours, 8:00 a.m. to 5:00 p.m., Monday through Friday. The pertinent documents (proposed regulations and Initial Statement of Reasons) pertaining to this rulemaking can be obtained on MRMIB's website at [www.mrmib.ca.gov](http://www.mrmib.ca.gov). The final Statement of Reasons can be obtained when available, after the public hearing and final adoption, by contacting Dennis Gilliam at (916) 324-4695 or [dgilliam@mrmib.ca.gov](mailto:dgilliam@mrmib.ca.gov).

Please address questions and requests for available information concerning the proposed regulations to Dennis Gilliam at (916) 324-4695 or Donald Minnich at (916) 327-7978 at the address listed above. Either person can answer questions regarding the substance of the proposed regulations or can direct the question to the appropriate person within the Board. Dennis Gilliam is designated as the small business advocate contact person for the Board.

**AUTHORITY AND REFERENCE:** The law the Board seeks to make specific by this filing is Part 6.2 of Division 2 of the Insurance Code:

### **Access for Infants and Mothers Program**

Authority: Section 12696.05, Insurance Code.

Reference: Sections 12693.765, 12695, 12696.05, 12695.06, 12695.08, 12695.18, 12695.20, 12695.22, 12695.24, 12696, 12696.05, 12698, 12698.05, 12698.06, 12698.30 and 12696, Insurance Code.

### **Healthy Families Program**

Authority: Sections 12693.21 and 12693.755, Insurance Code.

Reference: Sections 12693.02, 12693.03, 12693.045, 12693.06, 12693.065, 12693.08, 12693.09, 12693.10, 12693.105, 12693.11, 12693.12, 12693.13, 12693.14, 12693.615, 12693.16, 12693.17, 12693.21, 12693.326, 12693.34, 12693.43, 12693.45, 12693.46, 12693.51, 12693.53, 12693.615, 12693.63, 12693.65, 12693.70, 12693.71, 12693.73, 12693.74, 12693.75, 12693.755, 12693.765, 12693.77, 12693.91, 12693.98 and 12693.981, Insurance Code.

### **CHAPTER 5.6. ACCESS FOR INFANTS AND MOTHERS PROGRAM**

**Sections Amended:** 2699.100, 2699.200, 2699.201, 2699.205, 2699.209, 2699.400, and 2699.401.

### **CHAPTER 5.8 HEALTHY FAMILIES PROGRAM**

**Sections Amended:** 2699.6500, 2699.6600, 2699.6606, 2699.6607, 2699.6611, 2699.6613, 2699.6617, 2699.6619, 2699.6625, 2699.6631, 2699.6705, 2699.6717, 2699.6725, 2699.6801, 2699.6809, and 2699.6813.

**Sections Adopted:** 2699.6608.

## **INFORMATIVE DIGEST**

### **Existing Laws and Regulations**

Insurance Code Section 12695, et seq, established the Access for Infants and Mothers (AIM) Program in 1991, under the direction of the Managed Risk Medical Insurance Board (MRMIB)

Title 10, California Code of Regulations, Chapter 5.6 implements the AIM Program

Insurance Code Section 12693, et seq, established the Healthy Families Program (HFP) in 1997, under the direction of the Managed Risk Medical Insurance Board (MRMIB).

Title 10, California Code of Regulations, Chapter 5.8 implements the Healthy Families Program.

## **Policy Statement Overview**

The Access for Infants and Mothers (AIM) Program provides health insurance to low and moderate income pregnant women and the infants born to the covered women. The program is funded from four sources: the Cigarette and Tobacco Products Surtax Fund (Prop. 99), State General Fund, Federal Funds from Title XXI of the Social Security Act, and subscriber contributions. AIM is a means tested program, covering pregnant women with family incomes above 200%, but not more than 300%, of the federal poverty level (FPL). Women with family incomes below 200% FPL qualify for no cost Medi-Cal services for their pregnancy, funded by State and Federal dollars. Currently, AIM covers the infants born to the covered women for a period of up to two years. Many of the infants born into AIM would also be eligible for another of the board's programs, the Healthy Families Program (HFP), which covers infants in families from 200% through 250% of the federal poverty level.

The HFP program also provides health services to uninsured, low-income children. The program is targeted to serve children through age 18 whose family's income, although low, is too high to qualify for the Title XIX Medicaid Program, called Medi-Cal in California.

The 2003 health program budget trailer bill, AB 1762 (Chapter 230, Statutes of 2003), directed the MRMIB to provide automatic enrollment of infants, born to AIM subscribers enrolled on or after July 1, 2004, into the HFP. Prior to the implementation of the trailer bill, infants born to AIM subscribers were eligible for the AIM Program for 2 years; however, AB 1762 provides that infants born to AIM subscribers who are enrolled on or after July 1, 2004, will be automatically enrolled in the HFP at birth and will not be eligible for AIM. Infants born to AIM subscribers who are enrolled prior to July 1, 2004, will remain eligible for the AIM Program for 2 years.

These changes will allow the State to draw down more Federal funding, to improve coordination and linkages between the AIM and HFP programs, and to enhance customer services for the programs.

AB 1762 includes the following provisions:

- An infant born to an AIM subscriber who is enrolled in the AIM program on or after July 1, 2004, shall be automatically enrolled in the HFP.
- The infant's coverage will be effective on the date of birth.
- The enrollment shall cover the first 12 months of the infant's life, and at the end of the 12 months, income information shall be provided as a condition of continued eligibility, under the HFP Annual Eligibility Review process. The infant shall be disenrolled if the income is either under or over the AIM income eligibility standard.

Implementing AB 1762 required changes to both the AIM and HFP regulations. For an AIM subscriber who is enrolled in the AIM program prior to July 1, 2004, the subscriber contribution is 2% of adjusted household income; however, for a subscriber who is enrolled in the AIM program on or after July 1, 2004, the contribution rate will be reduced to 1.5% since the infant will not be covered under the AIM program, and the infant's family will be paying monthly HFP subscriber contributions. The AIM regulations are being amended to describe the different subscriber rates for AIM subscribers. (Section 2699.400, Subscriber Contributions)

The AIM regulations describe the registration process for infants born to subscribers who are enrolled prior to July 1, 2004. The regulations are amended to describe the different registration process for infants born to subscribers who are enrolled on or after July 1, 2004. (Section 2699.205, Registration of Infants)

In addition to the regulatory changes made in accordance with AB 1762, MRMIB is incorporating changes regarding acceptable income documentation to determine AIM eligibility. The term "spouse of a pregnant woman" is being added to the definition of family member. This had been inadvertently been left out of the definition, but is necessary to insure that AIM eligibility is based on household income as required by law. The W-2 form is being deleted as an acceptable form of income documentation and a Notice of Action from a County Welfare Department is being added as an acceptable form of income verification. The changes are being made to make acceptable documentation consistent in the AIM, HFP, and Medi-Cal programs, which is necessary for automatic enrollment of AIM born infants into HFP to work. (Section 2699.201, Definitions and Section 2699.201, Application) A copy of the revised application and instruction page is included with this package.

Other sections of the AIM regulations are amended because they are impacted by the changes being made in the AIM and HFP programs, to add a necessary definition and to make technical corrections. (Sections 2699.100, Definitions; 2699.200, Basis of Eligibility; 2699.209, Coverage; and 2699.401, Discount for Prepayment of Subscriber Contribution)

The HFP regulations did not include provisions for enrollment or coverage for AIM infants. To conform to AB 1762, it is necessary to add a section (2699.6608) to the current regulations to explain the registration and enrollment process that must be followed after an AIM infant is born. In order to have the infant automatically eligible for the HFP, retroactive to the date of birth as described below, the AIM subscriber must notify the HFP by the end of the eleventh month following the month of the infant's birth.

To implement the automatic enrollment requirements of AB 1762, coverage for AIM infants will be effective on the date of the infant's birth. Currently, for HFP pre-enrolled newborns, coverage begins no earlier than 10 days after birth because of the required 10-day notification for health plans. A subsection was added to the current HFP

regulations to explain that AIM born infants are covered as of their dates of birth. (Section 2699.6613, Starting Date of Coverage for Subscribers)

An AIM infant's automatic enrollment into the HFP will cover the first twelve (12) months of the infant's life. At the end of 12 months, as a condition of continued eligibility, the applicant will provide income information like any other family in the HFP. The infant will be disenrolled if the adjusted annual household income exceeds 300% of the federal poverty level or is under the income floor for the HFP. Amendments to the HFP regulations are not necessary for this provision of AB 1762 because Insurance Code Section 12693.70, which describes the income eligibility requirements, is already referenced in the HFP eligibility regulations.

AIM infants are initially assigned the same health plan as the AIM subscriber. In order to be consistent with the current HFP policy of keeping siblings in a household together in the same HFP plan, AIM infants with siblings in the HFP will be automatically transferred to their siblings' HFP plan after month two; however, exceptions are provided for children who, for health reasons, require continuity of care. The HFP regulations are being amended to reflect the transfer process. (Section 2699.6619, Transfer of Enrollment)

The HFP regulations were also revised to add an initial HFP health plan rate for AIM infants covering the birth month through the end of the AIM infant's second month of life. After this period, the health plan will be paid rates in accordance with the age and geographic region risk categories set forth in the current HFP regulations. The initial health plan rate is applicable only to health plans participating as contractors in the AIM program and shall cover a health plan's entire service area. The regulations establish the criteria for health plans who want to participate in AIM and the HFP as contractors to develop their rates. The actual rates are negotiated with each contacting plan. (Section 2699.6801, Risk Categories Health)

Other sections of the HFP regulations have been amended because they are impacted by the changes being made in the AIM and HFP programs, to add necessary definitions and to make technical corrections. (Section 2699.6500, Definitions; 2699.6600, Application; 2699.6607, Determination of Eligibility; 2699.6611, Disenrollment; 2699.6617, Additional Enrollments; 2699.6625, Annual eligibility Review for Subscribers; 2699.6631, Initial Enrollment Period for Child-linked Adults; 2699.6705, Share of Cost for Health Benefits; 2699.6717, Share of Cost for Dental Benefits for Subscriber Parents; 2699.6725, Share of Cost for Vision Benefits; and 2699.6809, Determination of Family Contribution for the Program).

### **Documents Incorporated by Reference**

- \* In the AIM regulations, Section 2699.201(d)(1), the application, entitled "Access for Infants and Mothers (AIM) Application" (July, 2002) has a revision date of July, 2003.
- \* In the HFP regulations, Section 2699.6617, the "Add a Person Application" (HF FM 67, 09/14/01) has been revised to the "Add a Person Form" (HF FM 067 EN 11/17/2003).

These regulations were presented to the Managed Risk Medical Insurance Board at three public meetings of the Board. Draft regulations were presented at the November 19, 2003. Final regulations were originally adopted by the Board at the January 28, 2004 meeting. However after the approval, staff received additional input from stakeholders and health plans participating as contractors in AIM about ensuring that there would be adequate coverage to AIM born infants whose mothers had not yet formally enrolled the infants into the HFP. The regulations were revised to make it easier for a mother to enroll her infant in HFP and to assure payment to the health plan of the initial plan rate established in HFP regulations Section 2699.6801. If the infant is in immediate need of health services during the period covered by the initial plan rate, the infant may be enrolled by the plan or health care provider without prior payment of premiums. The regulations were resubmitted to the Board at their March 24, 2004 meeting. The Board rescinded their January 28 approval and approved the regulations as revised. The Office of Administrative Law approved the emergency regulations effective July 1, 2004. One section, 2699.6705, Share of Cost for Health Benefits, is being amended through this notice to revise a cross reference which was not included in the approved emergency regulations.

### **DETERMINATIONS**

In accordance with Government Code Section 11346.5(A) (7), the Managed Risk Medical Insurance Board must determine that no reasonable alternative considered by the Board, or that has been otherwise identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.

The Managed Risk Medical Insurance Board has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The proposed action will not have an adverse economic impact on California business including the ability of California business to compete in other states. The changes mainly involve individual families applying for the AIM Program, whose babies will be

receiving health coverage through the HFP after July 1, 2004. The regulations also impact businesses who are health plan contractors in the AIM and HFP programs, but include a method for reimbursing the plans for the additional costs of covering AIM babies who are automatically enrolled into the HFP. Participation in the HFP and AIM programs by health plan is voluntary.

The Proposed Action Will Have An Effect on California housing costs: NO

The Proposed Action Differs Substantially From an Existing Comparable Federal Regulation or Statute: NO

Mandates on Local Agencies or School Districts: NONE

Mandate Requires State Reimbursement Pursuant to Part 7 (commencing with section 17500) of Division 4: NOT APPLICABLE

Cost to Any Local Agency or School District That Requires Reimbursement Pursuant to Part 7 (commencing with section 17500) of Division 4: NONE

Nondiscretionary Costs or Savings Imposed on Local Agencies: NONE

Cost or Savings To Any State Agency: These regulations will result in an estimated net cost in the 2004-05 Budget Year of \$1,970,337, to be shared by the Board's Healthy Families Program and the Department of Health Services' California Children's Services (CCS) Program. (The CCS Program covers some of the costs of high cost infants in the HFP, whereas it does not in the AIM Program.) These costs are included in the May Revise to the 2004-05 Governor's Budget. As more "AIM infants" go directly into HFP, there will be more net savings to the State. The estimated net savings for the State, in State Fiscal Year 2005-06 is \$13,843,448.

Cost or Savings in Federal Funding to the State: These regulations will allow the State to draw down more Federal funding. Federal funding is currently available only for AIM infants in families at 200% through 250% of the federal poverty level (fpl) and only for the infant's first year. For AIM infants born into HFP, federal funding will be available for nearly all of these infants. For families over 250% through 300% of fpl, federal funding will be available for up to two years, based on annual requalification, and for AIM families who remain within the regular HFP income thresholds (through 250% fpl) federal funding could continue through age 18, based on annual requalification. Federal funding is from Title XXI of the Social Security Act, the State Children's Health Insurance Program (SCHIP). SCHIP will provide an estimated additional \$11,815,127 for State Fiscal Year 2004-05 and \$17,239,448 for State Fiscal Year 2005-06, for both the HFP and CCS programs.



### **Business Impact Statement**

The Board has assessed the impact of these regulatory changes on California businesses, including small businesses. There is no known significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The changes mainly involve individual families applying for the AIM Program, whose babies will be receiving health coverage through the HFP after July 1, 2004. The regulations also impact businesses who are health plan contractors in the AIM and HFP programs, but include a method for reimbursing the plans for the additional costs of covering AIM babies who are automatically enrolled into the HFP. Participation in the HFP and AIM programs by health plans is voluntary. Any additional revenue to health plans resulting from this reimbursement will not be significant enough to either create new jobs or businesses or eliminate existing jobs or businesses or affect the expansion of businesses currently doing business within California.

### **Cost Impact on Representative Private Persons or Businesses**

The Board has considered the cost impact on representative private persons or businesses impacted by these regulations. The changes involve individual families who enroll in the AIM Program with effective dates on and after July 1, 2004 and will be required to pay the same monthly HFP subscriber contributions and also the limited HFP copayments for health services that are required of all HFP member families. (There were no monthly subscriber contributions or copayments in AIM.) However the Board has reduced the AIM fee of 2% of annual adjusted household income fee charged for joining AIM to 1.5% to make up for the impact of these additional costs.

For an AIM subscriber who is enrolled in the AIM program prior to July 1, 2004, the subscriber contribution remains at 2% of adjusted household income and there are no additional costs for the first year of AIM infant coverage.

The cost impact on health plans who participate as both HFP and AIM contractors has been addressed by establishing the ability of the Board to pay these plans a special fee which is meant to make up for the higher costs enrolling AIM born babies into HFP at birth.